# OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300 Sacramento, California 95833 (916) 274-5751 FAX (916) 274-5785

APR 1 3 2011

**OSH Appeals Board** 

### APPEAL FORM

Inspection No. 300752581 2011-R \ D5 -0938 —
Employer:

- CA DEPT. OF MENTAL HEALTH NAPA STATE HOSPITAL
- Address:

1600 NINTH STREET SACRAMENTO, CA 95814

1. This is an Appeal from:

- 1. You have only 15 working days from receipt of a citation to appeal.
- 2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

## FIRST READ <u>IMPORTANT INFORMATION</u> ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

	[ X ] CITATION NO(s) 1 Item No.(s) All items are appealed		
	[ ] NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION CITATION NO(s) Item No(s)		
	[ ] SPECIAL ORDER/SPECIAL ACTION NO: Item No.(s)		
2.	Specific ground(s) for this appeal are: (Check all that apply)		
	[ X ] The safety order was not violated.		
	[ X ] The classification (i.e., serious, willful, repeat) is incorrect.		
	[ X ] The abatement requirements are unreasonable.		
	[ X ] Required changes [ X ] Time allowed to complete changes		
	[ X ] The proposed penalty is unreasonable.		
3.	. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed in the Appeal Information Booklet or at the OSHAB websit at: http://www.dir.ca.gov/OSHAB/oshab.html		
	SEE ATTACHMENT.		

RECEIVED

3. State any other reasons for appeal or issues to be raised on appeal.

APR 13 2011

This appeal raises the following affirmative defenses:

**OSH Appeals Board** 

- 1. The Division of Occupational Safety and Health ("Division") does not have jurisdiction over the subject place of employment;
  - 2. The inspection(s) was invalid;
  - 3. The citation does not give notice of the violation and/or is otherwise defective;
  - 4. The safety order cited is vague and/or ambiguous;
  - 5. The citation was not issued timely;
  - 6. An exception to the safety order exempts compliance;
- 7. The citation does not allege a violation of that safety order which most appropriately pertains to the alleged violation;
  - 8. Independent employee action;
  - 9. It is impossible to comply with the safety order;
  - 10. The citation was issued to the wrong employer and/or a non-existing employer;
  - 11. No employee of Appellant was exposed to the alleged violation.
- 12. The citation does not correctly identify a location at which employees of Appellant were working.
- 13. Appellant had no actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.
- 14. Appellant acted as a reasonably prudent employer, having no reason to anticipate the existence of any hazard.
  - 15. Appellant acted with due diligence to comply with all regulatory requirements.
- 16. Appellant contends it had a reasonable expectation of privacy to be free of governmental inspections at its private place of employment, which place of employment was the subject of the inspection of the Division in this matter; that the inspection which did occur was illegal and in violation of Appellant's Fourth Amendment rights as no designated person of Appellant authorized the inspection conducted by the Division of said place of employment; that <u>no</u> inspection warrant was obtained to conduct said inspection; nor did the inspection occur pursuant to some other exception to the warrant requirement of Labor Code § 6314(b).

4.

#### (Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing.}

)N			
3300 SUNSET BOULEVARD, SUITE 110 (Address) {Address where all communications from the Appeals Board will be sent}			
CA	95677		
(State)	(ZIP Code)		
, ,	April 12, 2011 (Date)	<u> </u>	
	VARD, SUITE 110 ommunications from the A CA	CVARD, SUITE 110 communications from the Appeals Board will be sent}  CA 95677 (State) (ZIP Code)	

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

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- G. Mail each completed appeal form <u>and</u> citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, California 95833.
- H. Late appeals will not be accepted unless good cause is shown.

## OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARDVED

2520 Venture Oaks Way, Suite 300 Sacramento, California 95833 (916) 274-5751 FAX (916) 274-5785

APR 1 3 2011

**OSH Appeals Board** 

#### APPEAL **FORM**

Inspection No. 300752581	2011-R   D <b>5</b> -0939 —
Employer:  CA DEPT. OF MENTAL HEALTH NAPA STATE HOSPITAL	1. You have only 15 working days from receipt of a citation to appeal.
Address:  1600 NINTH STREET SACRAMENTO, CA 95814	2. A copy of this form must be attached to each citation or notification appealed Failure to file a completed form may result in dismissal of the appeal.
	NT INFORMATION ON THE REVERSE SIDE NE APPEAL FORM FOR EACH CITATION
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[ X ] Required changes	[ X ] Time allowed to complete changes
[ X ] The proposed penalty is unreasonab	le.
	es to be raised on appeal. Affirmative defenses must be specifically s are listed in the Appeal Information Booklet or at the OSHAB website ml
SEE ATTACHMENT	

RECEIVED APR 13 2011

3. State any other reasons for appeal or issues to be raised on appeal.

OSH Appeals Board

This appeal raises the following affirmative defenses:

- 1. The Division of Occupational Safety and Health ("Division") does not have jurisdiction over the subject place of employment;
  - 2. The inspection(s) was invalid;
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  - 4. The safety order cited is vague and/or ambiguous;
  - 5. The citation was not issued timely;
  - 6. An exception to the safety order exempts compliance;
- 7. The citation does not allege a violation of that safety order which most appropriately pertains to the alleged violation;
  - 8. Independent employee action;
  - 9. It is impossible to comply with the safety order;
  - 10. The citation was issued to the wrong employer and/or a non-existing employer;
  - 11. No employee of Appellant was exposed to the alleged violation.
- 12. The citation does not correctly identify a location at which employees of Appellant were working.
- 13. Appellant had no actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.
- 14. Appellant acted as a reasonably prudent employer, having no reason to anticipate the existence of any hazard.
  - 15. Appellant acted with due diligence to comply with all regulatory requirements.
- 16. Appellant contends it had a reasonable expectation of privacy to be free of governmental inspections at its private place of employment, which place of employment was the subject of the inspection of the Division in this matter; that the inspection which did occur was illegal and in violation of Appellant's Fourth Amendment rights as no designated person of Appellant authorized the inspection conducted by the Division of said place of employment; that <u>no</u> inspection warrant was obtained to conduct said inspection; nor did the inspection occur pursuant to some other exception to the warrant requirement of Labor Code § 6314(b).

4.				
	(Signature of Employer o	r Employer's Representativ	e)	
	{If there is any change in re	epresentation after you file yo	our appeal, you must notify the Appeals Board in writing.}	
	ROBERT D. PETE	RSON		
	(Type or Print Name)			
	,			
	ATTORNEY AT L.	AW		
	(Title)			
	,			
	3300 SUNSET BOULEVARD, SUITE 110			
	(Address) {Address where all communications from the Appeals Board will be sent}			
	(11001000) (11001000 Whole	an communications from the	reposition to the control	
	ROCKLIN	CA	95677	

(Telephone) (Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail after you file your appeal, you must notify the Appeals Board of the

(ZIP Code)

April 12, 2011

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(State)

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(City)

## OCCUPATIONAL SAFETY AND HEALTH APPEAUS BOARD

2520 Venture Oaks Way, Suite 300 Sacramento, California 95833 (916) 274-5751 FAX (916) 274-5785

APR 13 2011

**OSH Appeals Board** 

### APPEAL FORM

2011-R I D**5** -0940 — Inspection No. 300752581 Employer: 1. You have only 15 working days from receipt of a citation to appeal. CA DEPT. OF MENTAL HEALTH NAPA STATE HOSPITAL 2. A copy of this form must be attached to Address: each citation or notification appealed. Failure to file a completed form may 1600 NINTH STREET result in dismissal of the appeal. SACRAMENTO, CA 95814 FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION 1. This is an Appeal from: [ X ] CITATION NO(s) 3 Item No.(s) All items are appealed 1 NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION CITATION NO(s). Item No(s) ſ SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_\_ Item No.(s) Specific ground(s) for this appeal are: (Check all that apply) [ X ] The safety order was not violated. [ X ] The classification (i.e., serious, willful, repeat) is incorrect. [ X ] The abatement requirements are unreasonable. [ X ] Required changes [ X ] Time allowed to complete changes [ X ] The proposed penalty is unreasonable. 3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed in the Appeal Information Booklet or at the OSHAB website at: http://www.dir.ca.gov/OSHAB/oshab.html

SEE ATTACHMENT.

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APR 13 2011

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**OSH Appeals Board** 

- 1. The Division of Occupational Safety and Health ("Division") does not have jurisdiction over the subject place of employment;
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	<i>f</i> //
4.	
	(C) ( CT) 1

### (Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing.}

ROBERT D. PETERSO (Type or Print Name)	NC		
ATTORNEY AT LAW (Title)	<u> </u>		
3300 SUNSET BOULD (Address) {Address where all		appeals Board will be sent}	
ROCKLIN	CA	95677	
(City)	(State)	(ZIP Code)	
916/624-4551 (Telephone)		April 12, 2011 (Date)	

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## OCCUPATIONAL SAFETY AND HEALTH APPEADS BOARD OF

2520 Venture Oaks Way, Suite 300 Sacramento, California 95833 (916) 274-5751 FAX (916) 274-5785

APR 13 2011

**OSH Appeals Board** 

### APPEAL FORM

Inspection No. 300752581	2011-R   D <b>5</b> -0941 -
Employer:  CA DEPT. OF MENTAL HEALTH NAPA STATE HOSPITAL  Address:	<ol> <li>You have only 15 working days from receipt of a citation to appeal.</li> <li>A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may</li> </ol>
1600 NINTH STREET SACRAMENTO, CA 95814	result in dismissal of the appeal.
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SEE ATTACHMENT.	

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APR 1 3 2011

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**OSH Appeals Board** 

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ROBERT D. PETI	ERSON	
(Type or Print Name)		
ATTORNEY AT I	LAW	
(Title)		
· · · ·	ULEVARD, SUITE 110	
(Address) {Address wher	e all communications from the A	ppeals Board will be sent}
<u>ROCKLIN</u>	CA	95677
(City)	(State)	(ZIP Code)
916/624-4551		April 12, 2011
(Telephone)		(Date)

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## OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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APR 1 3 2011

# APPEAL FORM OSH Appeals Board

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ROBERT D. PETER	SON	All Andrews Trans.
(Type or Print Name)		
ATTORNEY AT LA	W	
(Title)		
()		
3300 SUNSET BOU	LEVARD, SUITE 110	
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() (		
ROCKLIN	CA	95677
(City)	(State)	(ZIP Code)
(,)	(=====)	,
916/624-4551		April 12, 2011

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(Telephone)

### OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARI

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APR 1 3 2011

### APPEAL FORM

**OSH Appeals Board** 

Iı	Inspection No. 300752581	2011-R   D5 -0943
Е	Employer:  CA DEPT. OF MENTAL HEALTH  NAPA STATE HOSPITAL	<ol> <li>You have only 15 working days from receipt of a citation to appeal.</li> <li>A copy of this form must be attached to</li> </ol>
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	[ X ] The classification (i.e., serious, willful, repeat) is in	correct.
	[ X ] The abatement requirements are unreasonable.	
	[ X ] Required changes [ X ] Time a	llowed to complete changes
	[ X ] The proposed penalty is unreasonable.	
3.	Explain any other reasons for appeal or issues to be raised or stated. Some important affirmative defenses are listed in the at: http://www.dir.ca.gov/OSHAB/oshab.html	
	OFF ATTACHMENT	

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3. State any other reasons for appeal or issues to be raised on appeal.

This appeal raises the following affirmative defenses:

**OSH Appeals Board** 

- 1. The Division of Occupational Safety and Health ("Division") does not have jurisdiction over the subject place of employment;
  - 2. The inspection(s) was invalid;
  - 3. The citation does not give notice of the violation and/or is otherwise defective;
  - 4. The safety order cited is vague and/or ambiguous;
  - 5. The citation was not issued timely;
  - 6. An exception to the safety order exempts compliance;
- 7. The citation does not allege a violation of that safety order which most appropriately pertains to the alleged violation;
  - 8. Independent employee action;
  - 9. It is impossible to comply with the safety order;
  - 10. The citation was issued to the wrong employer and/or a non-existing employer;
  - 11. No employee of Appellant was exposed to the alleged violation.
- 12. The citation does not correctly identify a location at which employees of Appellant were working.
- 13. Appellant had no actual knowledge, nor, with the exercise of reasonable diligence, could have known, of the existence of the alleged violation.
- 14. Appellant acted as a reasonably prudent employer, having no reason to anticipate the existence of any hazard.
  - 15. Appellant acted with due diligence to comply with all regulatory requirements.
- 16. Appellant contends it had a reasonable expectation of privacy to be free of governmental inspections at its private place of employment, which place of employment was the subject of the inspection of the Division in this matter; that the inspection which did occur was illegal and in violation of Appellant's Fourth Amendment rights as no designated person of Appellant authorized the inspection conducted by the Division of said place of employment; that <u>no</u> inspection warrant was obtained to conduct said inspection; nor did the inspection occur pursuant to some other exception to the warrant requirement of Labor Code § 6314(b).

#### (Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing.}

ROBERT D. PETERSO (Type or Print Name)	ON		
ATTORNEY AT LAW (Title)	7		
3300 SUNSET BOULEVARD, SUITE 110 (Address) {Address where all communications from the Appeals Board will be sent}			
ROCKLIN	CA	95677	
(City)	(State)	(ZIP Code)	
916/624-4551 (Telephone)		April 12, 2011 (Date)	

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

### IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete a separate appeal form for <u>each</u> citation or notification you wish to appeal and attach a copy of the complete citation or notification that you are appealing.
- C. If the citation or notification being appealed includes more than one item, do not use separate appeal forms for each item. Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form (for example, "Citation No. 1, Item Nos. 2, 5 and 8.")
- D. Be sure to sign your appeal form and provide all the information requested in No. 4, above.
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative changes address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed appeal form <u>and</u> citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, California 95833.
- H. Late appeals will not be accepted unless good cause is shown.